M

(Revenue **193** **Department**

SERIES.

G.O. No 92

Dated 7-1-48

Despatch Abstract

Acts- The Madras Estates Communal Forest and Private Lands (Prohibition of Alienation Act 1947 (Act XIV of 1947) Papers Recorded

A Bill to prohibit the alienation of communal, forest and private lands in estates in the Province of Madras.

Where as it is necessary to prevent the indiscriminate alienation of communal, forest and private lands in estates in the Province of Madras pending the enactment of legislation for acquiring the interests of landholders in such estates and introducing the ryotwari settlement therein; it is here by enacted as follows:-

short title extent and commencement.

1. (1) This Act may be called the Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Act, 1947.

Madras Act I of 1908.

(2) It extends to all estates in the Province of Madras governed by the Madras Estates Land Act, 1908.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context-

Madras Act I of 1908.

(a) "estate", "landholder", "private land" and "ryoti land" shall have the same respective meanings as in the Madras Estates Land Act, 1908, and "communal land" means any land of the description mentioned in section 3, clause (16), sub-~~section~~ clause (a) or sub-clause (b) of the Act;

(b) "forest land" includes any waste land containing trees, and shrubs, pasture land, and any other class of land declared by the Provincial Government to be forest land by notification in the Fort St.George Gazette;

(c) "impartible estate" means any estate included in the Schedule to the Madras Impartible Estates Act, 1904 or subsequently declared to be an impartible estate within the meaning of that Act, by an Act of the Legislature. Madras Act II of 1904.

Prohibition of the alienation of communal, forest and private lands in estates.

3. (1) Notwithstanding anything contained in any other law for the time being in force, no landholder shall sell, mortgage, convert into ryoti land, lease, or otherwise assign or alienate;-

(a) any communal or forest land in his estate without the previous sanction of the District Collector, on or after the date on which the Madras Estates Communal, Forest and Private Lands(Prohibition of Alienation) Ordinance, 1947, came into force, namely, the 27th day of June 1947 or Madras Ordinance II of 1947.

(b) any private land in an impartible estate notified by the Provincial Government in the Fort St.George Gazette, in pursuance of this clause or the corresponding clause in the Ordinance aforesaid, on or after the date on which the estate was so notified;

Provided that private land in an impartible estate so notified may be leased for a period not exceeding two years.

(2) Any landholder who has contravened or contravenes the provisions of sub-section (1) and any agent of the landholder who abets such contravention shall be punishable with imprisonment which may extend to two years, or with fine which may extend to five thousand rupees, ~~re~~ or with both.

Certain prior transactions of the nature specified in section 3 to be void.

4. Any transaction of the nature prohibited by section 3 which took place, in the case of any communal or forest land, on or after the 31st day of October 1939, and in the case of any private land in a notified estate, on or after the 1st day of November 1945, shall be void and inoperative and shall not confer or take away, or be deemed to have conferred or taken away, any right whatever on or from any party to the transaction.

Power to enhance jurisdiction of First-Class Magistrates to impose fines.

5. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 it shall be lawful for any Magistrate of the first class specially empowered by the Provincial Government in this behalf to impose a sentence of fine exceeding one thousand rupees for any offence under section 3, sub-section (1). Central Act V of 1898.

District Collector to sanction prosecutions.

6. No prosecution shall be instituted under this Act against any person without the previous sanction of the District Collector.

Bar of Jurisdiction.

7. No notification or order of the Provincial Government or of the District Collector under this Act shall be liable to be questioned in any Court of law.

Madras Ordinance II of 1947.

8. The Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Ordinance, 1947, is hereby repealed: Repeal and saving

Provided that all notifications and orders issued under the said ordinance and in force immediately before the commencement of this Act shall continue to be in force and be deemed to have been issued and shall have effect as if they had been issued under this Act.

Power to remove difficulties.

9. If any difficulty arises in giving effect to the provisions of this Act, the Provincial Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

Statement of Objects and Reasons.

as their private lands and to have assigned such lands

A number of representations were received by Government that landholders were resorting, on a large scale, to the alienation and assignment of communal lands including the beds and bunds of tanks, and also of forests. Some landholders were also reported to have claimed communal lands for large sums of money. It was further alleged that several landholders were alienating their private lands after receiving large amounts by way of Nazarana. It was clear that some landholders were acting recklessly, feeling perhaps that their future was uncertain and that whatever money they might manage to make would remain with them and would not affect the question of the compensation payable to them when their estates were taken over by Government. Government therefore decided that all these assignments and alienations should be prohibited altogether and penalised, and on the 27th June 1947, the Legislature not being then in session, promulgated an Ordinance called the Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Ordinance, 1947, for the purpose. Under sub-section (2) of section 88 of the Government of India Act, 1935, this Ordinance will lapse on the expiration of six weeks from the reassembly of the Legislature. It is therefore

proposed to repeal the Ordinance and re-enact its provisions with certain modifications. The alienations of communal and forest lands will be rendered void and penalised only where it has taken place without the previous sanction of the District Collector, and not otherwise. But alienations without such sanction have been made void, with retrospective effect from the 31st October 1939. As regards private lands in estates notified by Government, their alienation has been made void with retrospective effect from the 1st November 1945.

KALA VENKATA RAO

(True copy)

SUPERINTENDENT,
MADRAS RECORD OFFICE,
EGMORE

15/5

The Honourable the LEGISLATIVE ASSEMBLY,

MADRAS.

The Select Committee appointed to consider the Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Bill, 1947 (L.A.Bill No.26 of 1947), has the honour to make the following report.

2.The Bill was published in English in an extraordinary issue of the Fort St.George Gazette, dated the 13th September 1947.

3. The Committee was appointed on the 15th October 1947.

4. The Committee met in the Legislative Council Chamber, Fort St.George, at 12-15 p.m. on Thursday, the 16th October 1947, and concluded the consideration of the provisions of the Bill, the same day.

5. The more important changes intorduced in the Bill by the Select Committee are as follows.

The Committee decided by a narrow majority, to omit clause 4 in the Bill as introduced and to substitute the following for it:-

"Any transaction of the nature prohibited by section 3 shall be void and inoperative and shall not confer or take away, or be deemed to have conferred or taken away, any right whatever on or from any party to the transaction."

The Chairman, the Hon. the Minister for Revenue dissented from this decision.

In clause 8, at the instance of Sri Bhashyam, the Select Committee agreed tothe addition of a second proviso which reads as follows:-

"Provided further that the repeal of the said Ordinance shall not affect any penalty or punishment incurred in respect of any offence committed against it or any investigation, legal proceeding or remedy in respect of any such penalty or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty or punishment may be imposed as if the said ~~Ordi~~ Ordinance had not been repealed."

The Select Committee considered that it was not necessary to republish the Bill.

A copy of the Bill, as amended by the Select Committee is annexed.

Fort St.George,
16th October 1947.

KALA VENKATA RAO,
Chairman.

rue copy)

SUPERINTENDENT,
MADRAS RECORD OFFICE,
EGMORE.

(Note- The Changes made by the Select Committee are shown in clarendon type and the portions omitted are shown by dots.)

ANNEXURE.

L. A. Bill No. 26 of 1947.

A Bill to prohibit the alienation of communal, forest and private lands in estates in the Province of Madras

Whereas it is necessary to prevent the indiscriminate alienation of communal, forest and private lands in estates in the Province of Madras pending the enactment of legislation for acquiring the interests of landholders in such estates and intorducing the ryotwari settlement therein; it is hereby enacted as follows:-

short title extent and commencement.

1. (1) This Act may be called the Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Act, 1947.

Madras Act I of 1908.

(2) It extends to all estates in the Province of Madras governed by the Madras Estates Land Act, 1908.

(3) It shall come into force at once.

Difinitions

2. In this Act, unless there is anything repugnant in the subject or cnntext—

Madras Act I of 1908.

(a) "estate", "landholder", "private land" and "ryoti land" shall have the same respective meanings as in the Madras Estates Land Act, 1908, and "communal land" means any land of the description mentioned in section 3, clause (16), sub-clause (a) or sub-clause (b), of that Act;

(b) "forest land" includes any waste land containing trees and shrubs, pasture land and any other class of land declared by the Provincial Government to be forest land by notification in the Fort St. George Gazette;

Madras Act II of 1904.

(c) "impartible estate" means any eatate included in the Schedule to the Madras Impartible Estates Act, 1904, or subsequently declared to be an impartible estate within the meaning of that Act, by an Act, of the Legialature.

Prohibition of the alienation of communal forest and private lands in estates

3. (1) Notwithstanding anything contained in any other law for the time being in force, no landholder shall sell, mortgage, convert into ryoti land, lease, or otherwise assign or alienate—

Madras Ordinance II of 1947.

(a) any communal or forest land in his estate without the previous sanction of the District Collector, on or after the date on which the Madras Estates Communal, Forest and Brivate Lands (Prohibition of Alienation) Ordinance, 1947, came into force, namely, the 27th day of June 1947, or

(b) any private land in an impartible estate notified by the Provincial Government in the Fort St. George Gazettee, in pursuance of this clause or the corresponding clause in the Ordinance aforesaid, on or after the date on which the estate was so notified:

Provided that private land in an impartible estate so notified may be leased for a period not exceeding two years.

(2) Any landholder who has contravened or contravenes the provisions of sub-section (1) and any agent of the landholder who has abetted or abets such contravention shall be punishable with imprisonment which may extend to two years, or with fine which may extend to ~~two years~~ five thousand rupees, or with both.

Transactions of the nature specified in section 3 to be void.

4. Any transaction of the nature prohibited by section 3 shall be void and inoperative and shall not confer or take away, or be deemed to have conferred or taken away, any right whatever on or from any party to the transaction.

Power to enhance jurisdiction of First-class Magistrates to impose fines.

5. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class specially empowered by the Provincial Government in this behalf to impose a sentence of fine exceeding one thousand rupees for any offence under section 3 ... Central Act V of 1898

District Collector to sanction prosecutions.

6. No prosecution shall be instituted under this Act, against any person without the previous sanction of the District Collector.

Bar of jurisdiction.

7. No notification or order of the Provincial Government or of the District Collector under this Act shall be liable to be questioned in any Court of Law.

Repeal and savings.

8. The Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Ordinance, 1947 is hereby repealed: Madras Ordinance II of 1947.

Provided that all notifications and orders issued under the said Ordinance and in force immediately before the commencement of this Act shall continue to be in force and be deemed to have been issued, and shall have effect as if they had been issued, under this Act:

Provided further that the repeal of the Said Ordinance shall not affect any penalty or punishment incurred in respect of any offence committed against it or any investigation, legal proceeding or remedy in respect of any such penalty or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any suchpenalty or punishment may be imposed as if the said Ordinance had not been repealed.

Power to remove difficulties.

9. If any difficulty arises in giving effect to the provisions of this Act, the Provincial Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

(True copy)

SUPERINTENDENT,
MADRAS RECORD OFFICE,
EGMORE.

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Proceedings of the Select Committee on the Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Bill, 1947 (L.A.Bill No 26 of 1947).

The SELECT COMMITTEE met in the Council Chamber, Fort St. George, at 12-15 p.m. on Thursday, the 16th October 1947. The following members were present:-

The Hon. Sri Kala Venkata Rao (Chairman).
Sri S.Nagappa.
Sri Gona Sitaramaswami
Sri T.K.T.N.R.Tatachari.
Srimathi V.Seethamahalakshmamma.
Sri K.R. Karanth.
Zamindarof Mirzapuram.
Sri K.Bhashyam.
The Hon. Dr.P.Subbarayan.
Sri P.Kandaswami Pillai.
Mr.W.J. Fernandez.
Mahboob Ali Baig Sahib Bahadur.
H.S.Hussain Sahib Bahadur.
Sri P.Venkateswarlu.
Sri R.V.Swaminathan.

The Secretary to Government in the Revenue Department, the Joint Secretary to Government in the Legal Department and the Secretary to the Legislative Assembly were also present.

At the outset, there was some general discussion.

Sri Bhashyam pointed out that a provision should be made in the Zamindari Abolition Bill, which was expected to come up for consideration soon, for repealing this Act.

The Hon. the Minister for Revenue said that that would be done.

Sri Bhashyam also wanted that inams should be excluded from the scope of this Bill.

The Hon. the Minister for Revenue stated that it was the general intention of the Government to include all inams in all these Bills connected with the zamindari legislation and that it would not be possible to grant any exemption for inams.

Sri Karanth also pointed out that the earlier legislation (Act XVIII of 1946) included inams also and therefore did not see why inams should be excluded now, since it would mean going back on the principle accepted in the Act XVIII of 1946.

Then the Committee decided to consider the Bill clause by clause. It also decided that clauses 1 and 2 should be taken up last.

Clause 3, sub-clause (1)

Sri Bhashyam moved that in line 3 of the sub-clause, the following words be omitted:-

" convert into ryoti land."

While moving the amendment, he said that section 181 of the Madras Estates Land Act empowered the landholder to convert private lands into ryoti lands and enabled the holder of such ryoti land to get occupancy right and he did not see why such a thing should be prevented.

He also stated that under the provisions of the Zamindari Abolition Bill, the zamindars were entitled to be treated as ryotwari holders as regards the private lands held by them.

Therefore the fact of any mala fide transfer of such land would not matter and would not affect anybody's rights. But if his amendment was not accepted, it would hit hard a number of bona fide alienees for consideration of private land from the zamindars.

Sri Karanth pointed out that the conversion referred t was not limited to private lands but also communal and fore lands. In the proposed zamindari legislation, the zamindari legislation, the zamindar got only a nominal compensation for forest lands. If he was allowed to convert such forest lands into ryoti lands and make money, it would mear a larger payment of compensation to the zamindar by the Government. Therefore he opposed Sri Bhashyam's amendment.

Sri Bhashyam's amendment was lost.

Clause 3 (1) (a) was approved.

Clause 3(1)(b)

Sri Karanth raised the question why this legislation should be confined to private land in impartible estates notified by the Provincial Government.

He wanted that it should apply to all impartible estates whether notified or not and also to all partible estate

The Hon. the Minister for Revenue stated that complain had come from, and disturbances had taken place only in, a impartible estates on this account. Hence the section, He further stated that there were only very small holdings of private lands in partible estates.

The Zamindar of Miraapuram observed that there was no need for change in the wording of the sect since it was not necessary to bring in any estates re no troubles existed and that the present provisi should be left as it stood.

Sri Venkateswarlu moved and it was seconded by Sri Karanth, that for lines 1 and 2 in sub-clause (b), the following words be substituted:-

" any private land."

The amendment was lost.

Clause 3 (1) (b) was approved as in the Original Bill

Clause3, sub-clause (2)

The Hon. the Minister for Revenue moved, in line 3, after the word 'who', the following words be inserted:-

" has abetted or

He stated that it was a verbal amendment and required no explanation.

The amendment was accepted.

Clause 3, sub-clause (2) was passed as amended.

Gal Clause 4.

Sri Bhashyam moved that the following be substituted for the existing clause 4:-

"Any transaction of the nature prohibited by section 3 shall be void and inoperative and shall not confer or take away or be deemed to have conferred or taken away any right whatever on or from any party to the transaction."

He argued that this amendment was necessary to protect the bona fide alienees and he further stated that expost facto legislation was dangerous.

Sri Karanth, while seconding Sri Bhashyam's amendment, stated that it was not right to give this retrospective effect from any date earlier than that of the Ordinance, viz., 27th June 1947. He also thought that this matter, if necessary, could be taken up when the main Zamindari Abolition Bill came up for consideration.

The Hon. the Minister for Revenue strongly opposed the amendment and said that if that amendment was passed, it would greatly benefit the zamindars who alienated the communal or forest lands with a mala fide purpose in order to circumvent the provisions of the land legislati n which was now contemplated.

The amendment was passed.

Clause 4, as amended, was approved.

Clause 5.

The Hon. the Minister for Revenue moved that in the last line after the figure 3, add full stop (.) and omit the fe following:-

"sub-section (1)."

He stated that this was a verbal amendment.

The amendment was aceepted and the clause, as amended, was approved.

Clause 6.

Sri Venkateswarlu wanted that any individual should be givien the right to file a complaint for violation of any of the provisions of this Act.

The amendment was lost.

Clause 7 was approved.

Clause 8.

Sri Bhashyam moved that the following be added at the end, as a second proviso:-

"Provided further that the repeal of the said Ordinance shall not affect any penalty or punishment incurred in respect of any offence committed against it or any investigation legal proceeding or remedy in respect of any such penalty or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty or punishment may be imposed as if the said ordinance had not been repealed."

He stated that this amendment was necessary to cover the offences, etc., committed under the Ordinance.

The amendment was accepted and the clause, as amended was approved.

Clause 9 was approved.

Then the Committee took up clause 2.

Clause 2 (b).

Sri Bhashyam moved the following amendment:-

"For the existing sub-clause (b), the following be substituted:-

'forest land' includes tract of waste land covered with trees and other plants of natural growth and designated as forests in the village registers or commonly known or used as such and includes all lands that have been declared as such by the Government."

The Zamindar of Mirzapuram moved that the following be substituted for the existing sub-clause (b):-

" 'forest land' includes any waste land containing trees and fit or likely to be fit to be classified as reserve forest under any of the provisions of the Forest Act."

Both the amendments were discussed and they were not accepted.

Clause 2, as contained in the original Bill, was approved.

Cal Clause 1 was approved.

In view of the every few changes effected in the Bill, the Select Committee thought it not necessary to have the Bill republished.

The Select Committee authorized the Chairman to sign the Select Committee report.

D.K.V. RAGHAVA VARMA,
Secretary.

Fort St. George,
16th October 1947.

(True copy)

NOTICE: 17-10-1947.

THE MADRAS LEGISLATIVE ASSEMBLY

THE MADRAS ESTATES COMMUNAL, FOREST AND PRIVATE LANDS (PROHIBITION OF ALIENATION) BILL, 1947 (L.A.BILL No.26 of 1947).

AMENDMENT

Notice has been received of the following:-

Clause 4.

THE HON'BLE SRI KALA VENKATA RAO:

For clause 4 of the Bill, the following shall be substituted:

"4(1) Any transaction of the nature prohibited by section 3 which took place, in the case of any communal or forest land on or after the 31st day of October 1939, and in the case of any private land in a notified estate, on or after the 1st day of November 1945, shall be void and inoperative and shall not confer or take away, or be deemed to have conferred or taken away, any right whatever on or from any party to the transation.

Provided that nothing contained in this sub-section shall be deemed to invalidate ---

(1) any such transaction in respect of any forest land entered into before the 27th day of June 1947, in favour of any religious, charitable or educational institution, or of any hospital, or of any local board, municipal council, or co-operative society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or of any other public body or institution;

(ii) any such transaction in respect of any private land entered into before the date on which the impartible estate in which the land is situated is notified as specified in section 3(1)(b), in favour of any religious, charitable or educational institution, or of any hospital, or of any local Board, municipal council or co-operative society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or of any other public body or institution:

(iii) any such transaction in respect of any forest or private land not exceeding twenty acres in extent entered into in the case of forest land, before the 27th day of June 1947, and in the case of private land, before the date on which the impartible estate in which the land is situated is notified as aforesaid;

(iv) any such transaction in respect of any forest or private land exceeding twenty acres in extent, entered into before the respective dates specified in clause (iii), up to a limit of twenty acres chosen by the assignee or alienee, the choice being limited as far as possible to contiguous land.

(2) Any choice made under clause (iv) of the proviso to sub-section (1) shall be communicated to the Collector of the district or such officer as may be authorized by him, in the case of forest land within three months from the date on which this Act comes into force and in the case of private land, within three months from that date or from the date on which the impartible estate is notified as aforesaid, whichever is later.

(3) If any dispute arises as to the validity of the claim of any person to any land under clauses (i) to (v) of the priviso to sub-section (1), it shall be open to such person or to any other person interested in the transaction

or to the Provincial Government, to apply to the District Judge of the district in which the land is situated, for a decision as to the validity of such claim.

(4) The District Judge to whom an application is made under sub-section (3) shall, after giving notice to all the other persons concerned in the transaction or interested in the land and also, where the application is not made by the Provincial Government, to the Provincial Government, decide whether the claim to the land is valid or not: and his decision shall be final.

(5) The Provincial Government may, by notification in the Fort St.George Gazette, make rules for the prupose of carrying the provisions of this section into effect, and in particular as to the fees to be paid in respect of the applications referred to in sub-section (3), and the ~~proceedi~~ procedure of the District Judge.

D.K.V.RAGHAVA VARMA,
Secretary to the Legislative Assembly

Notice: 18/10-1947.

THE MADRAS LEGISLATIVE ASSEMBLY.

THE MADRAS ESTATES COMMUNAL, FOREST AND PRIVATE LANDS (PROHIBITION OF ALIENATION) BILL, 1947 (L.A.BILL No. 26 of 1947.)

AMENDMENTS TO AMENDMENTS PROPOSED BY THE HON'BLE SRI KALA VENKATA RAO

Clause 4 (1) of the Bill.

SRI A.VAIDYANATHA AYYAR

The following shall be added to the proviso to clause (4)(1):

"(v) any such transaction in respect of any forest or private land entered into before the respective dates specified in clause (iii), in favour of an assignee or alienee in good faith and for valuable consideration".

D.K.V.RAGHAVA VARMA,
Secretary to the Legislative Assembl

(True copy)

SUPERINTENDENT,
MADRAS RECORD OFFICE,
EGMORE.

Private Sectetary.

Madras Governor's Camp
Ootacamund,
22nd October 1947.

Dear Mr.Venkateswara Ayyar,

The Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Bill, 1947.

I have handed back to your Assistant Secretary the file containing the above Bill with His Excellency's endorsement reserving the Bill for the consideration of the Governor-General. I have also given him a D.O.letter to Capt.Brockman, Private Secretary to the Governor-General and an official letter for obtaining the Governor-General's assent on the blue copy of the Bill.

Under the new constitution, the Governor and the Governor-General act on ministerial advice in the matter of reserving or assenting to Bills of Legislature. The appropriate channel of correspondence, it appears, therefore should be between the Department of the Provincial Government (or the Hon'ble Minister) concerned and the Home Ministry of the Government of India who deal with all correspondence previously addressed to the Secretary to the Governor-General (Public). I suggest you ascertain the exact legal position as regards the procedure from the Legal Department and if it is decided that yourself or the H.M.(Revenue) should write to the Government of India, then this may be done and the letters already signed by me may not have to be used. As in my letter, the Secretary to the Home Ministry can also perhaps be asked to send you an immediate wire as soon as the Governor-General accords his assent.

Yours sincerely,
sd. P. Govindan Nair.

G.Venkateswara Ayyar,Esq., OBE, ICS,
Secretary to Government, Revenue Department.

(True copy)

SUPERINTENDENT,
MADRAS RECORD OFFICE,
EGMORE

15/5

D.O.No.2312 M/47-4

Revenue Secretary's Office,
Fort St.George,
Dated the 23rd October 1947.

The Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Bill, 1947 - Assent by His Excellency the Governor-General.

The Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Ordinance, 1947 (Madras Ordinance II of 1947) was promulgated by His Excellency the Governor on the 27th June 1947 under section 88 (1) ~~(b)~~ of the Government of India Act, 1935 on obtaining His Excellency the Governor-General's instructions under section 88(1)(b) of the Act. The Ordinance will cease to operate at the expiration of six weeks from the reassembly of the Madras Legislature i.e., on the 26th October 1947. The Ordinance as embodied in a bill with certain amendments was passed by both the Houses of the Provincial Legislature. His Excellency the Governor has reserved the Bill for the consideration of the Governor-General under section 107(2) of the Government of India Act 1935.

2. An Assistant Secretary to the Madras Government in the Revenue Department (the bearer of this letter) is arriving at New Delhi by air with this Bill bearing the appropriate endorsements. I am to say that His excellency the Governor-~~Generells assent could~~ be would be very grateful if His Excellency the Governor-General's assent could be obtained and the authentic copy returned to the bearer of this letter with the Governor-General's assent recorded thereon before the 26th October 1947. The Act will have to be published on or before that date; so can you kindly send an immediate telegram to me as soon as the Governor-General's assent is recorded.

3. I enclose an official letter explaining the details. The Exact position under the new constitutional set up regarding the channel of correspondence for obtaining the assent of His Excellency the Governor-General to Bills passed by the Provincial Legislature is not clear i-e. whether the Private Secretary to His Excellency the Governor should write to the Private Secretary to His Excellency the Governor-General as before or whether the Department of the Provincial Government should address the Home Ministry of the Government of India. In any ~~ax~~ case the Assistant Secretary is also carrying a letter from the Private Secretary to His Excellency the Governor to the Private Secretary to His Excellency the Governor-General on the same matter.

Yours sincerely,
sd. G.Venkateswara Ayyar.

To
The Secretary to the Government Of India,
Home Ministry, NEW DELHI.

(True copy)

SUPERINTENDENT,
MADRAS RECORD OFFICE,
EGMORE

15/5

GOVERNMENT OF MADRAS.
Revenue Department.

No.2312 M/47-3.

From

G.Venkateswara Ayyar Esq, O.B.E.,I.C.S.
Secretary to Government of Madras.

To

The Secretary to the Government of India,
Home Ministry, New Delhi

Dated, Fort St. George, the 22nd October, 1947.

Sir,

The Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Bill, 1947 - Assent of His Excellency the Governor-General.

I am directed to forward herewith the authentic copy of the Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Bill, 1947, as passed by both Houses of the Madras Legislature. The Hon'ble the Speaker of the Madras Legislative Assembly and the Hon'ble the President of the Madras Legislative Council have made the appropriate endorsements on the Bill.

2. The Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Ordinance, 1947 was promulgated by His Excellency the Governor on the 27th June 1947 under section 88(1) of the Government of India Act, 1935 when the Legislature was not in session. His Excellency the Governor-General's instructions under section 88(1)(b) of the Act were communicated in Secretary to the Governor-General(Public)'s telegram No. 1589 G dated the 26th June 1947. The Ordinance will lapse on the expiry of six weeks from the reassembly of the Legislature, i-e. on the 26th October 1947.

3. As stated in Mr.Viswanatha Ayyar's letter to you No.1157 M/47-5 dated the 28th August 1947 this Government decided to re-enact the material provisions of the Ordinance in the shape of an Act of the Legislature. The Ordinance was embodied in a Bill with certain amendments and additions and the Bill was published in an extra-ordinary issue of the Fort St.George Gazette on the 13th September 1947. His Excellency the Governor gave his previous sanction under section 299 (3) of the Government of India Act, 1935 as certain provisions of the Bill modified rights in land. The Bill was considered by a Select Committee which made some amendments. The Bill was passed by the Madras Legislative Assembly on the 18th October 1947 and by the Madras Legislative Council on the 21st October 1947.

4.The Bill falls within the scope of Entry 21 of the Provincial Legislative List, viz., "Land, that is to say, rights in or over land..... transfer, alienation and devolution of agricultural land" and is intra vires the Provincial-Legislature. Clause 5 of the Bill specifically overrides section 32 of the Code of Criminal Procedure and may be said to be repugnant to the Provisions of that Code. Similarly, clause 6 which requires that the previous sanction of the District Collector may be said to be repugnant to section 190 of the Code.

5. His Excellency the Governor has accepted the Ministerial advice and has reserved the Bill for the consideration of His Excellency the Governor-General under section 107(2) of the Government of India Act, 1935. The Act will have to

be published in the Fort St.George Gazette on or before the 26th October 1947. I am to request that His Excellency the Governor-General's assent may be obtained and communicated through the bearer of this letter before that date

6. I am to enclose 5 copies of each of the following:-

(1) The Bill as published and intorduced in the Legislature;
(2) The Bill as reported on by the Select Committee
(3) The Bill as passed by the Legislature;
(4) The proceedings of the Legislature, relating to the Bill.

Yours obedient servant,

L.G.Venkateswara Ayyar.

THE FORT ST. GEORGE GAZETTE

Part IV-B - Extraordinary

Published by Authority.

No.10. Madras, Saturday, October 25, 1947.

The following Act of the Madras Legislature receive the assent of His Excellency the Governor-General on the 25th October 1947, and is hereby published for general information:-

ACT No. XIV of 1947.

An Act to prohibit the alienation of communal, fore and private lands in estates in the Province of Mad

Whereas it is necessary to prevent the indiscriminate alienation of communal, forest and private lan in estates in the Province of Madras pending the en hance actment of legislation for acquiring the interests of landholders in such estates and introducin the ryotwari settlement therein: it is hereby enacted as follows:-

1. (1) This Act may be called the Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Act, 1947.

(2) It Extends to all estates in the Province of Madras governed by the Madras Estates Land Act, 1908.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context -

(a) "estate", "landholder", "private land" and "ryoti land" shall have the same respective meanings as in the Madras Estates Land Act, 1908 and "communal land" means any land of the descriptic mentioned in section 3, clause (16), sub-clause (a) or sub-clause (b), of this that Act.

(b) "forest land" me includes any waste land containing trees and shrubs, pasture land, and any other class of land declared by the Provincial Gover ment to be forest land by notification in the Fort St. George Gazette;

(c) "impartible estate" means any estate included in the Schedule to the Madras Impartible Estates Act, 1904, or subsequently declared to be an impartible estate whithin the meaning of that Act, by an Act of the Legislature

3. (1) Notwithstanding anything contained in any other law for the time being in force, no landholder shall sell, mortgage, convert into ryoti land, lease, or otherwise assign or alienate-

(a) any communal of forest land in his eatate without the provious sanction of the District Collector, on or after the date on which the Madras Estates Communal, Forest and Private Lands Prohibition of Alienation) Ordinance. 1947. came nto force. namely.

(b) any private land in an impartible estate notified by the Provincial Government in the Fort

the corresponding clause in the Ordinance aforesaid, on or after the date on which the estate was so notified:

Provided that private land in an impartible estate so notified may be leased for a period not exceeding two years.

(2) Any landholder who has contravened or contravenes the provisions of sub-section (1) and any agent of the landholder who has abetted or abets such contravention shall be punishable with imparisonment which may extend to two years, or with fine which may extend to five thousand rupees or with both.

Transactions of the nature specified in section 3 to be void.

4. (1) Any transaction of the nature prohibited by section 3 which took place, in the case of any communal or forest land, or or after the 31st day of October 1939, and in the case of any private land in a notified estate, or or after the 1st day of November 1945, shall be void and inoperative and shall not confer on or take away, or be deemed to have conferred or taken away, any right whatever on or from any party to the transaction:

Provided that nothing contained in this sub-section shall be deemed to invalidate;-

(i) any such transaction in respect of any forest land entered into before the 27th day of June 1947, in favour of any religious, charitable or educational institution, or of any hospital, or of any local board, municipal council, or co-operative society registered or deemed to be registered under the Madras Co-operative Societies Act 1932 or of any other public body or institution

Madras Act VI of 1932.

(ii) any such transaction in respect of any private land entered into before the date on which the ~~land is situated~~ impartible estate in which the land is situated is notified as specified in section 3 (1) (b), in favour of any religious, charitable or educational institution, or of any hospital, or of any local board, municipal council or co-operative society registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or of any other public body or institution.

(iii) any such transaction in respect of any forest or private land not exceeding twenty acres in extent, entered into, in the case of forest land, before the 27th day of June 1947, and in the case of private land, before the date on which the impartible estate in which the land is situated is notified as aforesaid:

(iv) any such transaction in respect of any forest or private land exceeding twenty acres in extent, entered into before the respective dates specified in clause (iii), up to a limit of twenty acres chosen by the assignee or alienee, the choice being limited as far as possible to contiguous land:

(v) any such transaction in respect of any forest or private land entered into before the respective dates specified in clause (iii), in favour of an assignee or alienee in good faith and for valuable consideration.

(2) ny choice made under clause (iv) of the proviso to sub-section (1) shall be communicated to the Collector of the district or such officer as maybe authorized by him, in the case of forest land within three months from the date on which this Act comes into force and in the case of private land, within three months from that date or from the date on which the impartible estate is notified as aforesaid whichever is later.

(3) If any dispute arises as to the validity of the claim of any person to any land under clauses (i) to (v) of the proviso to sub-section (1), it shall be open to such person or to any other person interested in the transaction or to the Provincial Government, to apply to the District Judge of the district in which the land is situated, for a decision as to the validity of such claim.

(4) The District Judge to whom an application is made under sub-section (3) shall, after giving notice to all the other persons concerned in the transactio or interested in the land and also, where the application is not made by the Provincial Government, to the Provincial Government, decide whether the claim to the land is valid or not; and his decision shall be final.

(5) The Provincial Government may, by notification in the Fort St. George Gazette, make urles for the purpose of carrying the provisions of this section into effect, and in particular as to the fees to be paid in respect of the applications referred to in sub-section (3), and the procedure of the District Judge.

Power to enhance J risdictio of First-class Magistrates t impose f

5. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class specially empowered by the Provincial Government in this behalf to impose a sentence of fine exceeding one thousand rupees for any offence under section 3. Central Act V of 1898.

District Collector to sanction porsecutions.

6. No prosecutions shall be instituted under this Act against any person without the previous sanction of the District Collector.

Bar of Jurisdiction.

7. No notification or order of the Provincial Government or of the District Collector under this Act shall be liable to be questioned in any Court of Law.

Repeal and savings.

8. The Madras Estates (Communal, Forest and Private Lands (Prohibition of Alieantion) Ordinance 1947 is hereby repealed: Madras Ordinance II of 1947

Provided that all notifications and orders issued under the said Ordinance and in force immediately before the commencement of this Act shall continue to be in force and be deemed to have been issued, and shall have effect as if they had been issued, under this Act:

Provided further that the repeal of the said Ordinance shall not affect any penalty or punishment incurred in respect of any offence committed against it or any investigation, legal proceeding or remedy in respect of any such penalty or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty or punishment may be imposed as if the said

P.T.O.

Ordinance had not been repealed

Power to remove difficulties

9. If any difficulty arises in giving effect to the provisions of this Act, the Provincial Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

PROCEEDINGS OF THE SELECT COMMITTEE ON THE MADRAS ESTATES COMMUNAL, FOREST AND PRIVATE LANDS (PROHIBITION OR ALIENATION) BILL, 1947 (L.A.BILL No. 26 OF 1947).

The SELECT COMMITTEE met in the Council Chamber Fort St.George, at 12-15 p.m. on Thursday, the 16th October 1947. The following members were present:-

The Hon. Sri KALA VENKATA RAO (Chairman).
Sri S. NAGAPPA.
Sri GONA SITARAMASWAMI.
Sri T.K.T.N.TATACHARI.
Srimathi V.SEETHAMAHALAKSHMAMMA
Zamindar of MIRZAPURAM.
Sri K.R.KARANTH.
Sri K.BHASHYAM.
The Hon. Dr. P.SUBBARAYAN.
Sri P.KANDASWAMY PILLAI.
Mr. W.J.FERNANDEZ.
MAHBOOB ALI BAIG SAHIB Bahadur
H.S. MUSSAIN SAHIB Bahadur.
Sri P.VENKATESWARLU.
Sri R.VE SWAMINATHAN

The Secretary to Government in the Revenue Department, the Joint Secretary to Government in the Legal Department and the Secretary to the Legislative Assembly were also present.

At the outset, there was some general discussion.

Sri Bhashyam pointed out that a provision should be made in the Zamindari Abolition Bill, which was expected to come up for consideration soon, for repealing this Act.

The Hon. the Minister for Revenue said that that would be done.

Sri Bhashyam also wanted that inams should be excluded from the scope of this Bill.

The Hon. the Minister for Revenue stated that it was the general intention of the Government to include all inams in all these Bills connected with the zamindari legislation and that it would not be possible to grant any exemption for inams.

Sri Karanth also pointed out that the earlier legislation (Act XVIII of 1946) included inams also and therefore did not see

Revenue Department.

Memo.No. 1928 M/47-1 dated 25-9-47.

Bills - The Madras Estates Communal, Forest and Private Lands (Prohibition of Alienation) Bill, 1947 - Classes of land to be decleared as forest land - Notification.

The attention of the Board of Revenue is invited to clause 2(b) of the Madras Estates Communal, Forest and Private Lands (~~Private~~ Prohibition of Alienation) Bill, 1947. The Board is requested to submit a list showing the classes of land which in its opinion be notified under that clause.

To

The Board of Revenue.

(True copy)

R. Thiagarajan 24.4

for SUPERINTENDENT,
MADRAS RECORD OFFICE,

EGMORE

15/5

REVENUE DEPARTMENT.
Subject.

The Madras Estates communal forest and Private Land (Prohibition of Alieantion) Act- 1947 - Classes of land to be declared as forest land - Notification - Report submitted.

Res.Rt. 7052

Station Madras dated 6.12.47.

From

C.A.Ramakrishnaan, Esq., I.C.S.,
Joint Secretary, Board of Revenue,

.....

V.N.Kuduva, Esq.,C.I.E., I.C.S.,
Commissioner of Land Revenue, Excise and Prohibition.

.....

Read the following:-

Government Rev.Memo 1928 M/47-1 dated 25-9-47
2. -do- 1928 M/47-2 dated 30-10-47
3. from the collector of Chingleput L.Dis 24987/47.A.1 d/16.11.47

.....

Resolution

The Board considers that the definition of "Forest land" in section 2(b) of the Act is sufficiently comprehensive as it includes any waste land containing trees and shrubs and also pasture land. It therefore, submits that till a concrete case arises indicating the need for a declaration of any particular class of land as Forest land no declaration under s.2(b)need be made

.....

Joint Secretary.

To the Secretary to Govt.Rev.Dept.
copy to the collector of Chingleput.

(True copy)

SUPERINTENDENT
MADRAS RECORD OFFICE
EGMORE.

BN/

The papers related to the Madras Estate Communal, Forest and Private Lands (Prohibition of Alienation) Aact, 1947. The papers may be

G.O. No. Ms. 92, dated 17.1.48.

Recorded

Sub:- Acts - Madras Estates Communal, Forest and Prohibition of Alienation) Act, 1947 (XIV of 1947) - Papers - Recorded.

(By order of H.E. the Governor)

(Sd) x x
Secretary to Government.

/True copy/

R. Thiagarajan 26.11
Superintendent,
.7.53.
Madras Record Office.

mr.16.7

JP 21/11